IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH

M. A. No. 1452 of 2019
In
C.P. No. 442/I&B/MB/2018

Under Section 33 of Insolvency & Bankruptcy Code, 2016

In the matter of
Evershine Advisory Services Pvt. Ltd.
.... Financial Creditor
vs.
Optic Advisory Pvt. Ltd.
.... Corporate Debtor

M.A. No. 1452/2019
Mr. Ajay Kumar
.... Applicant/
Resolution Professional

Order delivered on 03.06.2019

Coram: Hon'ble Shri Bhaskara Pantula Mohan, Member (J)
Hon'ble Shri V. Nallasenapathy, Member (T)

For the Applicant: Mr. Aniruth Purosothraman, Advocate.

Per:V. Nallasenapathy, Member (Technical)

ORDER

1. The Corporate Insolvency Resolution Process (CIRP) was initiated against the Corporate Debtor by an order dated 16.10.2018 of this Adjudicating Authority on a Section 7 Petition filed by a Financial Creditor, wherein Ms. Dipti Mehta, was appointed as Interim Resolution Professional (IRP). Thereafter on 06.12.2018 in the 2nd Committee of Creditors (CoC) meeting Mr. Ajay Kumar was resolved to be appointed as Resolution Professional (RP) and the same was approved by this Bench by an order dated 03.01.2019 .

2. The RP submits that the first public announcement in Form-A was made on 25.10.2018 in "Free press Journal" and "Navshakti", inviting claims from the creditors.

3. The Resolution Professional issued advertisement on 06.01.2019 in Form G inviting expression of interest from the prospective resolution applicants in "Free

NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH

press Journal" in English and "Navshakti" in Marathi, as decided by CoC. The Resolution Professional submits that no resolution plan was received from any resolution applicants.

4. The CoC in the 4th CoC meeting held on 06.02.2019 decided to seek waiver from appointment of Valuers, since as per Balance Sheet for 2017-2018, the assets of the Company are of negligible value i.e. fixed assets worth Rs. 1,725/- and cash worth Rs. 90,306/-, and this bench has granted waiver from valuation.

5. Since no resolution plan has been received, the Committee of Creditors in their fifth meeting held on 26.03.2019, resolved to liquidate the Corporate Debtor, with 100% voting. The CoC also authorised the RP herein to file an application before this Bench for appointment of new professional as Liquidator. The Applicant has suggested the name of Ms. Rajshree Padia, as liquidator to carry on the process of liquidation, who has given her consent to act as Liquidator.

6. On hearing the submissions of the Applicant and on reading the Application and the documents enclosed therein, for the RP has complied with the procedure laid under the Code read with Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, we are of the view that this case is fit to pass liquidation order under sub-section 1 of section 33 of the Code as no resolution plan has been submitted before the Adjudicating Authority by the Resolution Professional, and accordingly, this Bench orders;

a. that the Corporate Debtor be liquidated in the manner as laid down in the Code by issuing Public Notice stating that the Corporate Debtor is in liquidation with a direction to the Liquidator to send this order to the ROC under which this Company has been registered.
b. That Ms. Rajshree Padia, is hereby appointed as Liquidator as provided under Section 34(1) of the Code.
c. all the powers of the Board of Directors, key managerial persons, the partners of the Corporate Debtor hereafter ceased to exist. All these powers henceforth vest with the Liquidator.
d. that the personnel of the Corporate Debtor are directed to extend all co-operation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.
e. that the Liquidator will charge fees for conduct of the liquidation proceedings in proportion to the value of the liquidation estate assets as specified by the IBBI and the same shall be paid to the Liquidator from the proceeds of the liquidation estate under Section 53 of the Code.

f. that on having liquidation process initiated, subject to section 52 of the Code, no suit or other legal proceeding shall be instituted by or against the Corporate Debtor save and except the liberty to the liquidator to institute suit or other legal proceeding on behalf of the corporate debtor with prior approval of this Adjudicating Authority.

g. This liquidation order shall be a deemed to be notice of discharge to the officers, employees and workmen of the Corporate Debtor except to the extent of the business of the Corporate Debtor continued during the liquidation process by the Liquidator.

7. Accordingly, this Misc. Application is hereby allowed directing the Liquidator appointed in this case to initiate liquidation process as envisaged under Chapter-III of the Code by following the liquidation process given in the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

SD/-
V. Nallasenapathy
Member (Technical)

SD/-
Bhaskara Pantula Mohan
Member (Judicial)

राष्ट्रीय कम्पनी विधी अधिकरण
NATIONAL COMPANY LAW TRIBUNAL
सत्यमेव जयते
मुंबई न्यायपीठ
MUMBAI BENCH

Certified True Copy
Copy Issued "free of cost"
On 17-06-2019

Assistant Registrar
National Company Law Tribunal Mumbai Bench